

The opinion in support of the decision being entered today is
not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY DAWSON

Appeal 2007-2585
Application 09/917,192
Technology Center 3600

Decided: August 28, 2007

Before EDWARD C. KIMLIN, PETER F. KRATZ, and
CATHERINE Q. TIMM, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-14 and 23-33.

Claim 1 is illustrative:

1. A door module for covering a surface cut-out recess in an inside panel of a vehicle door, the door module comprising:

a substantially rigid portion of long glass fiber reinforced plastic; and

a substantially elastic portion of plastic substantially free of long glass fibers and formed in one piece with the substantially rigid portion,

wherein the substantially rigid portion and the substantially elastic portion are of the same plastic.

The Examiner relies upon the following references in the rejection of the appealed claims:

Eckhardt	US 6,305,129 B1	Oct. 23, 2001
Whitehead	US 6,422,640 B2	Jul. 23, 2002

Appellant's claimed invention is directed to a door module for an inside panel of a vehicle door. The module comprises a substantially rigid portion comprising plastic that is reinforced with long glass fiber. The module also comprises an elastic portion of plastic that is substantially free of such fibers. Both the rigid and elastic portions of the module comprise the same plastic.

Appealed claims 1-10, 14, and 23-33 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Whitehead. Claims 11-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Whitehead in view of Eckhardt.

We have thoroughly reviewed the respective positions advanced by Appellant and the Examiner. In so doing, we find that the Examiner has not presented sufficient evidence to support a rejection under either § 102 or § 103. Accordingly, we will not sustain the Examiner's rejections.

Whitehead discloses that the door trim panel 34 comprises a rigid, hard plastic and is preferably "made of polypropylene and formed by conventional injection molding processes as is known in the art" (col. 3,

ll. 47-49). However, as emphasized by Appellant, and apparently conceded by the Examiner, Whitehead provides no teaching or suggestion that the rigid polypropylene comprises any fiber, let alone the presently claimed long glass fibers. The Examiner states that "these plastics have long fibers/staple glass fibers" (Answer 3-4). Evidently, the Examiner is relying upon the theory of inherency, i.e., all hard, rigid polypropylene comprises long glass fiber. However, the Examiner has presented no objective evidence to support his position, and, significantly, Appellant has cited evidence to support the argument that "[h]arder forms of plastic may be manufactured through many different means, including use of various fillers, catalysts, and non-glass additives" (Principal Br. 7-8). Unfortunately, the Examiner has not responded to this argument of Appellant, but replies with the irrelevant statement that "it appears that the appellant is relying on a method of forming ... and not the apparatus per se" (Answer 5, first para.). The Examiner also errors in stating that "appellant's broad claims would read on any door component formed of plastic having a hard/dense portion and a flexible portion" (*id.*). To the contrary, Appellant's broadest claims require that the rigid portion comprise long glass fiber and that the elastic portion comprises no long glass fiber.

We must also point out that the Examiner has failed to respond to a number of arguments presented by Appellant with respect to various separately argued claims. Manifestly, this constitutes reversible error.

Concerning the § 103 rejection over the additional citation of Eckhardt, this additional reference does not remedy the basic deficiency of Whitehead discussed above.

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In conclusion, based on the foregoing, we are constrained to reverse the Examiner's rejections.

REVERSED

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